

The Atchison Topeka And Santa Fe

Between San Francisco and Chicago
Via Albuquerque, and Kansas City.

Sneed Comfort and Elegance

Pullman and Dining Service Unsurpassed,
Passing through the Grandest Scenery of the West
F W Prince, Agent, 641 Market St. San Francisco Cal

Sacramento Saloon

ANDY TODD, Prop.

The best of liquid refreshments always on tap, including imported
and domestic goods.

Good Cigars are a part of our stock.

You never make a mistake at the old corner.

The Eagle Market

Our Meats are the best, if you are not
satisfied with the place you are trading
call on us. Our motto is "The Best."
A pleased patron means a steady customer.

The Eagle Market

ANNUAL STATEMENT

Of The Home Insurance Co. of New

York.

Capital (paid up).....\$ 3,000,000 00
Assets.....21,239,052 88
Liabilities, exclusive of capi-
tal and net surplus.....9,518,551 51

Income

Premiums.....8,785,528 49
Other sources.....853,478 14
Total income, 1905.....9,639,006 63

Expenditures

Losses.....4,240,249 45
Dividends.....600,000 00
Other expenditures.....3,032,720 90
Total expenditures, 1905.....7,872,970 35

Business, 1905.

Risks written.....1,330,688,280 00
Premiums thereon.....13,244,369 17
Losses incurred.....6,187,946 22

Nevada Business

Risks written.....318,390 00
Premiums received.....7,150 53
Losses paid.....1,983 84
Losses incurred.....1,983 84

A. M. Brutis, Secretary.

ANNUAL STATEMENT

Of Business of the Nevada Co. for 1905

Receipts.....\$132,652 60
Disbursements.....147,864 57
X. M. Hickey, Cashier

SPECIAL EXCURSION FROM SAN
FRANCISCO TO CITY OF MEXICO
AND RETURN, DECEMBER 16th,
1905.

A select party is being organized by
the Southern Pacific to leave San
Francisco for Mexico City, December
16th, 1905. Train will contain first
class vestibule and dining car, all
the way to the trip. Time limit
will be 14 days, enabling excursion-
ists to make side trips from City of
Mexico to points of interest. On re-
turn trip, passengers will be allowed at
points of the Coast of Mexico
Central, Santa Fe of Southern Pacific.
An excursion manager will be in
charge and make all arrangements.
Round trip rate from San Francisco
\$80.00.

Put your berth rate to City of Mex.

For further information, address
Southern Pacific, 613 Market street,
San Francisco, Cal.

San Francisco, Cal.

San Francisco, Cal.

San Francisco, Cal.

San Francisco, Cal.

San Francisco, Cal.

San Francisco, Cal.

San Francisco, Cal.

San Francisco, Cal.

San Francisco, Cal.

San Francisco, Cal.

San Francisco, Cal.

IN THE SUPREME COURT OF THE STATE OF NEVADA.

Appealed From the Fourth Judicial
District Court, Elko County, Ne-
vada.
The State of Nevada,
Plaintiff and Respondent,
against
Paul Lovelace,
Defendant and Appellant.
Attorney General James G. Sweeney,
Attorney for State.
Wm. Woodburn, Attorney for Appel-
lant.

Defendant appeals from a judgment
rendered against him in the District
Court in and for Elko county for the
crime of burglary; and he assigns two
reasons why, as he claims, judgment
should be reversed.

First, the insufficiency of the in-
dictment on which the judgment was
based; and

Second, the absence of corroborat-
ion of the testimony of an accomplice
who testified against the defendant.

Under the first head the point made
is on the proper interpretation of the
following clause in the indictment:

"The said Paul Lovelace on the 11th
day of May, 1904, in the night time,
said day, or thereabouts, in the County
of Elko, State of Nevada, without au-
thority of the law and before the find-
ing of this indictment, did willfully,
unlawfully and burglariously break
and enter the building of one Alexan-
der Burrell."

Counsel for defendant in his or-
der brief, if an unsigned paper in the
usual form of a brief found among the
papers in the case as they appear filed
in this court, is by us treated as a
brief, say:

"Appellant claims that this in-
dictment is not good at common law, be-
cause the words 'or thereabouts', re-
late to and qualify the words 'night
time'. This question was not raised
in the court below, but is here pre-
sented for the first time.

The question is not whether the in-
dictment would be good 'at common
law'. It is whether it is good under the
statute of Nevada that governs the
subject. The subject is governed by
the sections following concerning in-
dictments:

Section 4199, Compiled Laws, 1900,
provides that the indictment shall con-
tain "..... a statement of the
acts constituting the offense, in
ordinary and concise language, and in
such manner as to enable a person of
common understanding to know what
is intended."

Section 4206, Compiled Laws, 1900,
has the following: "The words used
in an indictment shall be construed
in the usual acceptance in common
language, except such words and
phrases as are defined by law, which
are to be construed according to their
legal meaning."

Section 4208, Compiled Laws, 1900,
provides: "Sixth—That the act or omission
charged as the offense is clearly and
distinctly set forth in ordinary and
concise language, without repetition,
and in such a manner as to enable a
person of common understanding to
know what is intended."

Section 4209 is as follows:
"No indictment shall be deemed
insufficient, nor shall the trial, judg-
ment, or the proceeding thereon, be
affected, by reason of any defect or
imperfection in matters of form,
which shall not tend to the prejudice
of the defendant."

The foregoing enactments show that
it was the intention of the legisla-
ture of Nevada that in construing in-
dictments the courts should not indulge
in a too exact and over-nice view of
language; but that certainty to a com-
mon intent was all that should be
required.

True, in the paragraph of the in-
dictment under discussion, there is
something of a departure from the
best models of grammatical, rhetori-
cal or linguistic expression. But we
think the paragraph meets the
requirement of the statute that "the
acts constituting the offense should be
charged in ordinary and concise lan-
guage, and in such manner as to en-
able a person of common understand-
ing to know what is intended." To
hold the indictment not fatally bad is,
we think, to keep within the statu-
tory command, as expressed above
in Section 4206, or at least not to de-
part too far from such command, to
wit, to construe "in the usual accept-
ance in common language."

We think the defect of the in-
dictment complained of was such as in
the language of Section 4209, above
quoted, was a "defect or imperfection
in matters of form, which did not tend
to the prejudice of the defendant."

The language of the indictment
could doubtless be made more accu-
rate; but we think it is not fatally
defective. In brief of Counsel for de-
fendant the following correction is of-
fered:

"If the words 'or thereabouts' had
been inserted after the words on the
11th day of May, 1904, the in-
dictment could not be the subject of criti-
cism or assault."

Perhaps the following phraseology
might be considered an improvement
on the phraseology of the indictment:

"The said Paul Lovelace did in the
night time of the 11th day of May,
1904, or thereabouts the said 11th day
of May, 1904, enter, etc."

Said Paul Lovelace did, in the night
time, on or about the 11th day of
May, 1904, enter, etc."

It might perhaps be considered a little
better collection of words, although
this is something of a departure from
the form suggested in the statute con-
cerning the form of indictments.

That mere grammatical, punctua-
tional (if verbal "free coinage") may
be allowed, rhetorical or linguistic
error does not always vitiate is fol-
lowing by decisions of courts and
text writers. The following notably
excellent authority is cited to sus-
tain this doctrine:

Cyclopedia of Law and Procedure (Cyc.) vol. 6, page 199; and authori- ties there mentioned.

While this indictment, in the respects
mentioned is in truth, inartistically
drawn, yet under the statutes and the
authorities above stated, we cannot
say that it is fatally defective. The
sections of the statute above quoted
show that the legislative intent was
that the courts of the State should
give interpretations liberal to sustain
rather than rigid to overthrow in-
dictments when, as in this case substan-
tial rights of defendants are not there-
by prejudiced; and as we have from
the authorities mentioned seen that
even under the common law to over-
throw this indictment would seem too
rigid an interpretation.

Under the second head the error
claimed is stated in the brief of Coun-
sel for defendant as follows:

"On the trial of appellant the de-
position of one Ross, taken at the pre-
liminary examination was read in
evidence, because he broke jail and
escaped before the trial and his pres-
ence could not be procured."

"He testified that he and appellant
entered the store of Alexander Burrell
on the day named in the indictment,
stole a bag of amalgam of the value
of about \$24.00, and buried it a short
distance from the scene of the crime.
Appellant claims there was no testi-
mony corroborative of that of Ross,
and that a conviction could not be
had."

In this contention Counsel is, we
think, clearly mistaken. Besides
minor points of corroboration, not nec-
essary to be mentioned here, the tes-
timony of the witness W. J. Davidson
corroborates the testimony of the ac-
complice Ross. Davidson testifies that
the defendant requested him (David-
son) "to help him rob the store at
Edgemont", that is the store that was
robbed. Davidson further testifies
that the defendant "told him he would
have got the amalgam if something
had not happened"—the amalgam was
the article stolen in the robbery. Davidson
further testifies that the de-
fendant was trying to dispose of the
amalgam, the thing stolen; and asked
Davidson this question: "What
am I going to do about that damned
stuff?"

If this testimony was true, and its
truth was a question entirely for the
jury, there was corroboration of the
testimony of the accomplice Ross.

Defendant fails in sustaining either
of his two points urged in argument
for the reversal of the judgment.

The judgment is therefore affirmed.

Fitzgerald, C. J.

We Concur:
Talbot, J.
Norcross, J.
Filed January 4, 1906.

TOURIST EXCURSION PARTIES TO THE EAST.

Over the Scenic Line of the World.

If you are going east and want to
save money, yet travel with pleasure
and comfort it will pay you to in-
vest our personally conducted tourist
excursions. The parties are in charge
of a Manager who accompanies the
cars through to St. Louis, Chicago
and the Atlantic Coast and gives his
personal attention to the welfare of
each passenger in his charge. The
schedules are arranged so you pass
through the world-famed scenery on
the Denver and Rio Grande Railroad
by daylight. Open-top Observation
cars (something entirely new) are
free to all passengers. Let us know
where you are going and we will
be glad to give you full information
about your trip, the lowest rates of
fare and send you free of charge some
handsome illustrated books of travel.

W. J. SHOTWELL,
General Agent.
625 Market Street, San Francisco, Cal.

Cattle and Horses.

The City Marshal gives warning
that all loose stock found on the
streets from this time on will be em-
pounded. A strict attention to this
particular ordinance will be enforced
and emponding fines will be impos-
ed in every case.

Wm. Kinney,
Marshal.

LADIES: I make from \$18 to \$20
per week and want all to have the
same opportunity. The work is very
pleasant and will pay you very hand-
somely for even your spare time. I
speak from experience as I have fre-
quently made \$5.00 in a single day.
This is no deception. I want no
money and will gladly send full par-
ticulars to all. Address,
MRS. W. W. MITCHELL,
Box 10, Portland, Maine.

Notice to Hunters.

Notice is hereby given that any
person found hunting without a permit
on the premises owned by Theodore
Winters, will be prosecuted. A lim-
ited number of permits will be sold
at \$5 for the season or 50 cents for
one day.

A. C. WINTERS.

Take a look at the new ties that
are being shown at Platt's.

Wiard is closing out his \$20.00
stock at a sacrifice. This is an op-
portunity for Christmas shoppers.

Liberal Offer.

I beg to advise my patrons that the
price of disc records (either Victor
or Columbia) to take effect imme-
diately, will be as follows until fur-
ther notice:
Ten-inch discs formerly 70 cents
will be sold for 60 cents.
Seven inch records formerly 50c.
now 35c. Take advantage of this of-
fer.
C. W. FRIEND.

ORDINANCE NO. 112.

On Ordinance for the Licensing of
Games and Gambling Devices in
Carson City.

The Board of Trustees of Carson
City do ordain:

Section 1. Each and every person,
firm, company, corporation, or asso-
ciation within the limits of Carson
City, who shall carry on as agent,
manager, owner or proprietor, any
game of faro, roulette, rondo, keno,
or any other game not prohibited by
the statutes of the State of Nevada,
or who shall carry on or operate any
slot-machine, or who shall carry on or
conduct any bank-

ing game played with cards, dice or
other device, whether the same be
played with money, checks, credit or
any other valuable thing or repre-
sentative of value, shall pay for and
obtain a city license to carry on such
game, and shall pay for each license
twenty-five dollars (\$25.00) per month
provided that when more than one
or said games are carried on in the
same room or apartment, whether
by the same or different owners, each
game so carried on shall be separately
licensed; and provided further,
that the license imposed by this Or-
dinance is for the revenue only, and
not for the purpose of prohibition,
suppression or regulation.

Section 2. The provisions of this
Ordinance shall apply to all time
on and after October 1, 1905.

Section 3. Ordinance Number 53
and all other ordinances or parts of
Ordinances in so far as they conflict
with the provisions of this Ordi-
nance are hereby repealed.

President of the Board of City Trus-
tees of Carson City, Nevada.

Attest:
H. B. Van Etten, Clerk.

OFFICIAL COUNT OF STATE FUNDS.

County of Ormsby, s. s.

W. G. Douglas, and James
G. Sweeney, being duly sworn,
say they are members of the
Board of Examiners of the State of
Nev., that on the 29th day of Jan., '05
they, (after having ascertained from
the books of the State Controller the
amount of money that should be in
the Treasury) made an official exami-
nation and count of the money and
vouchers for money in the State Treas-
ury of Nevada and found the same
correct as follows:

Cash.....\$288,280 74
Paid coin vouchers not re-
turned to Controller 111,112 18
Total.....399,392 92
State School Fund Securities.
Irredeemable Nevada State
School bond.....380,000 00
Mass. State 3 per cent
bonds.....527,000 00
Nevada State Bonds.....253,700 00
Mass. State 3 1/2 per cent
bonds.....313,000 00
United States Bonds.....215,000 00
Total.....2,098,092 92
W. G. Douglas
James G. Sweeney

Subscribed and sworn before me this
29th day of January, A. D. 1906.
J. Doane,
Notary Public, Ormsby County, Nev.

ANNUAL STATEMENT

Of The State Life Insurance Company

Indianapolis, Ind.

Capital (paid up).....none
Assets (admitted).....3,160,983 31
Liabilities, exclusive of capi-
tal and net surplus.....4,615,497 63

Income

Premiums.....946,901 77
Other sources.....197,125 01
Total income, 1904.....2,224,026 78

Expenditures

Losses.....390,902 69
Dividends.....65,240 11
Other expenditures.....1,059,102 76
Total expenditures, 1904.....1,416,245 56

Business, 1904

Risks written.....23,276,143 09
Premiums thereon.....805,648 06
Losses incurred.....316,885 09

Nevada Business.

Risks written.....10,000 00
Premiums received.....2,852 43
Losses paid.....5,000 00

W. S. Wynn Secretary.

New lines of footwear ar-
rived daily at Ed. Burlington's 3-5 S-5
He has been consider-
ably delayed in freight
arriving daily. You will
find the best lines of shoe-
rie in his store at prices are
ways the lowest. You can save
money by purchasing footwear at
his store.

Quarterly Report.

OFFICE COUNTY AUDITOR

Ormsby County, Nevada.

To the Honorable the Board of Coun-
ty Commissioners, Gentlemen:

In compliance with the law, I
herewith submit my quarterly re-
port showing receipts and disburse-
ments of Ormsby County, during
the quarter ending Dec. 30, 1905.

Receipts.

Balance in County Treasury at
end of last quarter.....\$10023 36 1/2
County licenses.....701 05
Gambling licenses.....1057 50
Liquor licenses.....310 20
Fee of Co. officers.....531 40
Rent of county bldg.....250 00
Poll taxes.....620 40
1st. Instalment taxes.....14924 21 1/2
Special school taxes.....1710 90 1/2
Slot machine license.....282 00
Cigarette license.....42 20
Semi-Annual Set. State Treas.....531 78
Delinquent taxes.....22 80 1/2
Sale of horse.....10 00
Sale of pump.....12 00
Keep of W. Bowen.....45 00
Total.....61,077 36 1/2

Disbursements.

State fund.....6692 82 1/2
General fund.....2732 32
Salary fund.....2290 00
Agl. Assn. Bond Fund, Series
A, \$100.00.....250 00
Agl. Assn. Bond Fund, Series
B \$100.00.....400 00
Co. School fund, Dist. 1.....383 95
Co. School fund, Dist. 2.....151 20
Co. School fund Dist. 3.....20 70
Co. School fund Dist. 4.....24 00
State School fund, Dist. 1.....165 00
State school fund, Dist. 2.....160 00
State School fund, dist. 3.....120 00
State School fund, dist. 4.....165 00
Special building.....5850 00
School library, No. 2.....86 00
Total.....21,868 59 1/2

Re capitulation.

Cash in Treasury October 1905
.....40023 36 1/2

Receipts from Oct. 1st to Dec
30, 1905.....21054 00 1/2

Disbursements from Oct. 1st
to Dec 30, 1905.....21968 59 1/2

Balance cash in County Treas.
January 1, 1906.....29108 77 1/2

Respectfully submitted,
H. DIETERICH,
County Auditor.

Recapitulation

State fund.....103 86
General fund.....4017 03 1/2

Salary fund.....2732 32
Co. School fund.....3248 71

Co. School Dist. 1, fund.....7638 22 1/2
Co. School Dist. 2, fund.....129 64

Co. School Dist. 3, fund.....190 26 1/2
Co. School Dist. 3, fund.....425 05

State School Dist. 1, fund.....1698 06
State School Dist. 2, fund.....77 51

State School Dist. 3, fund.....371 32
State School Dist. 3, fund.....371 39

State School Dist. 4, fund.....19 23
Agl. Assn. Fund A.....680 82 1/2

Agl. Assn. Fund B.....86 86 1/2
Agl. Assn. Fund Special.....1918 94

Co. School Dist. fund - special
.....12735 90 1/2

Co. School Dist. fund 1, library
.....108 40

Co. School Dist. fund 3, library
.....6 50

Co. School Dist. fund 4, library
.....6 10

Total.....29108 77 1/2

Respectfully submitted
H. B. VAN ETEN
County Treasurer

MILLARD CATLIN,

Hauling,
Freighting
Draying

Trunks and Baggage
taken to and delivered at
all trains.

Ho. For the West.

Tell your friends that the colonist
rates are going into effect March 1st,
1905 and expire May 15, 1905. The
rate from Chicago, Ill. \$31.00, St. Louis
Mo., New Orleans, La. \$30.00, Coun-
cil Bluffs Ia., Sioux City, Ia., Omaha,
Neb., Kansas City, Mo., Mineola, Tex-
as and Houston Texas, \$25.00. Rates
apply to Main Line points in Califor-
nia and Nevada.

For Sale.

Two quartz wagons, one wood and
one low wheel wagon, also harness for
six horses. House, barn and five lots
Apply at Adam Bay, Silver City, Nev.

For
May Gifts
A Michaels Stern
An Overcoat
A Dress
A Pair of Shoes
A Hat
A Pair of Socks
A Pair of Gloves
A Pair of Ties
A Pair of Cuffs
A Pair of Buttons
A Pair of Pins
A Pair of Needles
A Pair of Scissors
A Pair of Nails
A Pair of Screws
A Pair of Nuts
A Pair of Washers
A Pair of Bolts
A Pair of Rivets
A Pair of Brackets
A Pair of Hinges
A Pair of Locks
A Pair of Keys
A Pair of Handles
A Pair of Knobs
A Pair of Pulls
A Pair of Hooks
A Pair of Eyes
A Pair of Screws
A Pair of Nuts
A Pair of Washers
A Pair of Bolts
A Pair of Rivets